

# **Exhibit F**

Giddings, Peter CONFIDENTIAL MATERIAL SUBJECT TO PROTECTIVE ORDER July 20, 2006  
Washington, DC

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

**ORIGINAL**

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SMITH KLINE & FRENCH	:	THIS DEPOSITION
LABORATORIES LIMITED and	:	TRANSCRIPT CONTAINS
SMITHKLINE BEECHAM CORPORATION	:	CONFIDENTIAL MATERIAL
d/b/a GLAXOSMITHKLINE,	:	THAT IS SUBJECT
	:	TO PROTECTIVE ORDER
Plaintiffs,	:	
v.	:	Civil Action No. 05-197
TEVA PHARMACEUTICALS USA, INC.,	:	
Defendant.	:	Thursday, July 20, 2006

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Videotaped Deposition of PETER GIDDINGS, a witness  
herein, called for examination by counsel for  
Defendant in the above-entitled matter, pursuant to  
notice and agreement of counsel, commencing at 9:56  
a.m., at Wilmer Cutler Pickering Hale & Dorr, LLP,  
1875 Pennsylvania Avenue, N.W., Washington, D.C.,  
before RYAN C. JACKSON, CSR, Notary Public in and for  
the District of Columbia, when were present on behalf  
of the respective parties:

Henderson Legal Services, Inc.  
(202) 220-4158

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1 A I don't recall precisely when.

2 Q Can you give me an estimate?

3 A Well, it was -- I first heard soon after  
4 the ANDA notice was filed.

5 Q Are you currently employed by  
6 GlaxoSmithKline?

7 A I am.

8 Q And what is your title there?

9 A Head of Patent Administration and  
10 Information in the Corporate Intellectual Property  
11 Department.

12 Q And what are your duties as Head of Patent  
13 Administration?

14 A I'm responsible with respect to patent  
15 administration for the paralegal staff who take care  
16 of all the formalities associated with patent filings  
17 around the world and also with data management on our  
18 patent applications, for example, to ensure that fees  
19 are paid, actions are taken and so on.

20 With respect to information, I'm  
21 responsible for a group of U.K. based information  
22 scientists who do some searching work for the

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1 department.

2 In addition, I'm also responsible for  
3 managing departmental budgets and expenditures, as  
4 well. And I also have a small portfolio of patent  
5 work but it's -- it is relatively small compared to  
6 other attorneys in the department.

7 Q When you say you have a small portfolio of  
8 patent work, what do you mean by "patent work"?

9 A Responsibility for certain patent  
10 applications that have been filed and a small area of  
11 research where new patent applications may be filed  
12 in the future.

13 Q So would it be fair to say, then, that the  
14 patent work that you're responsible for includes  
15 drafting patent applications?

16 A Yes.

17 Q And would it also include prosecution of  
18 those patent applications with various international  
19 patent offices?

20 A It does.

21 Q And does it also include determining  
22 whether a patent application should be filed --

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1           **A     No, I don't.**

2           **Q     Earlier Ms. Wigmore commented that you're**  
3           **an attorney. Are you registered with some Bar**  
4           **organization?**

5           **A     Not with a Bar organization, but I have two**  
6           **qualifications, two legal qualifications.**

7           **Q     And what are those?**

8           **A     As a U.K. Chartered Patent Agent and a**  
9           **European Patent Attorney.**

10          **Q     And did you have -- when did you get those**  
11          **two legal qualifications?**

12          **A     I got the U.K. qualification in 1985 and**  
13          **the European qualification in 1986.**

14          **Q     Prior to getting those two legal**  
15          **qualifications, were you employed by GlaxoSmithKline?**

16          **A     At the time -- at the time of those**  
17          **qualifications, I was employed by a predecessor**  
18          **company of GlaxoSmithKline.**

19          **Q     Which was?**

20          **A     Which was Smith Kline & French**  
21          **Laboratories, Limited, which was the U.K. part of**  
22          **Smith Kline Beckman Corporation.**

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1           A     I'm sorry, just one moment. Okay.

2           Q     You understand that the '808 patent and the  
3     '860 patent are the two that I'm referring to when I  
4     refer to the patents-in-suit?

5           A     Yes.

6           Q     With respect to the prosecution of the '808  
7     patent, did you have any involvement in that?

8           A     Can I clarify that you are referring to the  
9     U.S. '808 patent?

10          Q     That's right.

11          A     Yes. No, I did not.

12          Q     And with respect to the U.S. '860 patent --

13          A     My role with respect to this patent was  
14     to -- I was responsible for drafting the U.K.  
15     priority application on which this application is  
16     based.

17          Q     When you say you were responsible for  
18     drafting the U.K. priority application for the U.S.  
19     '860 patent, were you the only person responsible for  
20     drafting that priority application?

21          A     I don't -- I don't recall specifically -- I  
22     don't recall in detail, but I do -- I do recall that

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1 inventorship, I would have made an investigation, but  
2 I don't remember doing so as I am here today.

3 BY MR. BRAHMA:

4 Q And because it was your responsibility, no  
5 one else would have done it, correct?

6 MS. WIGMORE: Objection.

7 THE WITNESS: With respect to this  
8 application, that's correct.

9 BY MR. BRAHMA:

10 Q You said that -- well, correct me if I'm  
11 wrong, but my understanding is that you previously  
12 testified that for the applications that you were  
13 responsible for, when you made a designation of  
14 inventorship, you would make an investigation into  
15 the inventorship; is that accurate, typically?

16 A Yes.

17 Q What type of investigation would you do to  
18 determine the proper inventorship of an application?

19 MS. WIGMORE: And you may answer based on  
20 your general custom and practice. You may not in the  
21 course of your answer reveal the substance of any  
22 attorney-client communications to the extent you

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1 remember any.

2 THE WITNESS: As a general practice, I  
3 would talk to the people who provided me the  
4 information relating to the invention in the first  
5 instance and I would ask them to provide me with  
6 details of what they thought their involvement  
7 comprised and then also ask them to tell me of any  
8 other people who were involved with the work, as  
9 well; and then I would talk to those people to see --  
10 to get their view, as well, and from that information  
11 I'd make a designation of inventorship.

12 BY MR. BRAHMA:

13 Q And what is the standard for inventorship  
14 in the U.K.?

15 MS. WIGMORE: Objection, calls for a legal  
16 conclusion. You can give your understanding.

17 THE WITNESS: Well, the standard that we  
18 work to is to try and name the people who were  
19 actually involved with coming up with the invention.

20 BY MR. BRAHMA:

21 Q And when you say, "involved with coming up  
22 with the invention," what do you mean?



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1 BY MR. BRAHMA:

2 Q Can you describe for me your typical  
3 process for drafting a patent application.

4 MS. WIGMORE: Again, you may testify about  
5 your general practice, but you may not in the course  
6 of your answer reveal the substance of any  
7 attorney-client communications.

8 THE WITNESS: Yes, from a general practice,  
9 perspective, usually the first point would be  
10 somebody from R&D would come to me with some  
11 information that they would like to discuss whether  
12 or not that's patent -- it is patentable, and we  
13 would look at what information they have and  
14 discuss -- discuss putting together a claim a patent  
15 claim for the invention bearing in mind any prior art  
16 that may be out there affecting the invention and  
17 also looking at what might be a reasonable prediction  
18 for a generic claim based on the information that we  
19 have.

20 And from the claim, my practice was then to  
21 turn to drafting a description of the patent  
22 application, which is basically the description of

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1 how to make and use the claimed invention; and at  
2 that point I would need from the usually scientists  
3 detailed information as to the specific examples of  
4 the application, data and so on.

5 And then I would arrive at a draft patent  
6 application, and then I would have the people in R&D  
7 who have provided me the information review the  
8 application and be comfortable that everything that  
9 I've said is correct and complete.

10 BY MR. BRAHMA:

11 Q So let me try and break that down into the  
12 individual steps. You said first that someone from  
13 R&D typically comes to you with a proposed invention  
14 to patent; is that accurate?

15 A Well, they come with information which they  
16 think might be an invention that is patentable.

17 Q And you advise them as to whether it's  
18 patentable or not?

19 MS. WIGMORE: I just want to be clear, and  
20 if you'll give me a standing instruction, I'd  
21 appreciate it that he is allowed to talk about  
22 general practice but that these answers do not reveal

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1 attorney-client communication and will not be  
2 construed in any way as a waiver.

3 MR. BRAHMA: Actually, it would be helpful  
4 to me if you could make that instruction  
5 individually.

6 MS. WIGMORE: Okay. Then that instruction  
7 applies to this question.

8 THE WITNESS: I'm sorry, could you repeat  
9 the question please.

10 MR. BRAHMA: Could you please reread the  
11 question.

12 (The reporter read the record as  
13 requested)

14 MS. WIGMORE: Same instruction.

15 THE WITNESS: Yes, that's part of my role.

16 BY MR. BRAHMA:

17 Q And then the next step is to develop what  
18 you called a generic claim in light of the prior art?

19 A Yes.

20 MS. WIGMORE: Same objection.

21 BY MR. BRAHMA:

22 Q Can you tell me what you mean by "a generic

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1 claim."

2           A       Yes. Normally when the scientists come to  
3 us they have a specific example or specific examples  
4 of work, and it is my job as a patent attorney to  
5 look at what they have and see if we can -- see if  
6 from that we can create a general -- a general  
7 formula that covers -- that covers the really the  
8 invention that they have so there may be a number --  
9 so they have a number of individual examples within  
10 that can be encompassed within a broad -- sorry, not  
11 necessarily a broad but in the generic formula that  
12 protects really the invention, if you like, or the  
13 idea that they have which is embodied in those  
14 individual examples.

15           Q       And if we could use the '860 patent as an  
16 example, is there a generic claim in that patent?

17           MS. WIGMORE: And, again, I'm going to  
18 instruct you not to reveal the substance of any  
19 privileged communications you may recall about that  
20 patent application process, but you can answer  
21 otherwise if you can.

22           THE WITNESS: Do you want me to look at the

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1 '860 patent?

2 BY MR. BRAHMA:

3 Q The '860 patent that has previously been  
4 marked as Exhibit 17.

5 MS. WIGMORE: So the question is does that  
6 patent encompass a generic claim?

7 BY MR. BRAHMA:

8 Q Yes, does the '860 patent have a generic  
9 claim as you've used that term?

10 MS. WIGMORE: You may answer that question.

11 THE WITNESS: Yes, it does. Claim 1 is a  
12 generic claim.

13 BY MR. BRAHMA:

14 Q So under the typical process, that generic  
15 claim would be something that you came up with; is  
16 that correct?

17 MS. WIGMORE: And again, in your answer you  
18 may reveal -- you may discuss your typical practice,  
19 but if you have any recollection of the specific  
20 process by which you drafted Claim 1, I instruct you  
21 not to reveal the substance of any attorney-client  
22 communications about that.

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1 THE WITNESS: With respect to this specific  
2 claim, I don't recall how I have that claim -- how  
3 that claim was arrived at.

4 As a matter of general practice, it's  
5 something I do in discussion with the people involved  
6 with the invention. So it's a -- it's a joint  
7 discussion about the generic scope.

8 BY MR. BRAHMA:

9 Q But with respect to this specific claim,  
10 Claim 1 of the '860 patent, you don't remember  
11 whether or how that generic claim was arrived at; is  
12 that correct?

13 MS. WIGMORE: And again, to the extent you  
14 recall any substantive communications, I instruct you  
15 not to reveal them. You may answer whether you  
16 remember or not.

17 THE WITNESS: I don't remember.

18 BY MR. BRAHMA:

19 Q So you also wouldn't remember whether Dr.  
20 Owen came up with that generic claim; is that  
21 correct?

22 MS. WIGMORE: Same instruction. You can

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1 answer whether you remember anything about how that  
2 claim was arrived at.

3 THE WITNESS: No, I don't remember.

4 BY MR. BRAHMA:

5 Q Is the generic claim typically broader than  
6 the idea that the person from R&D who initially  
7 approaches you has come up with?

8 MS. WIGMORE: Object to the form of the  
9 question. I also instruct you not to reveal the  
10 substance of any attorney-client communications in  
11 your answer, but you can answer.

12 THE WITNESS: I don't think it's -- it's  
13 not correct to say that it's broader. It necessarily  
14 encompasses more than the specific examples that you  
15 have been given but its intent is to cover the  
16 concept of the invention, which, rather than saying  
17 it's broader than the invention -- or it's not  
18 correct to say it's broader than the invention.

19 The invention is the generic claim, and  
20 it's defined and it's supported by the specific  
21 embodiment -- the specific examples that you have.  
22 So it's -- it's -- it's often not -- to say it's one

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1 invention, it's not broadening the invention.

2 BY MR. BRAHMA:

3 Q But is it correct to say, then, that the  
4 person from R&D who initially comes to you with this  
5 specific example doesn't necessarily have to have  
6 envisioned the broader generic claim prior to coming  
7 to you?

8 MS. WIGMORE: I'm going to object to that  
9 question. I think it's fine for the witness to  
10 testify about general practice, but your questions  
11 are going to specifics and calling for I think a  
12 specific attorney-client advice which I'm going to  
13 instruct him he may not provide.

14 I don't know that there's any situation  
15 where that's happened, but he can only testify about  
16 general practice. I'm not going to allow him to  
17 reveal any attorney-client communications.

18 THE WITNESS: I think it would depend is  
19 the answer.

20 BY MR. BRAHMA:

21 Q What would it depend on?

22 MS. WIGMORE: Same objection.



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1 Q So as far as you know or as far as you  
2 remember sitting here today, you may have been the  
3 one to come up with the generic claim that's Claim 1  
4 of the '860 patent?

5 MS. WIGMORE: Objection.

6 BY MR. BRAHMA:

7 Q Is that correct?

8 A No, I don't remember. I don't remember how  
9 the claim arose.

10 Q So based on your recollection sitting here  
11 today, you can't say that you were not the inventor  
12 of the generic claim that is Claim 1 of the '860  
13 patent, correct?

14 MS. WIGMORE: Objection. And I instruct  
15 you not to reveal the substance of any  
16 attorney-client communications in your answer if you  
17 recall any.

18 THE WITNESS: I have no belief that I was  
19 the inventor of that claim.

20 BY MR. BRAHMA:

21 Q And what is the basis for your belief that  
22 you were not the inventor of that claim?

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1 Q Well, let me rephrase it. Can you tell me  
2 what your basis is for your belief that Dr. Owen is  
3 the proper inventor of the claims of the '860 patent?

4 MS. WIGMORE: And I'm going to instruct you  
5 if your answer requires you to reveal any  
6 attorney-client privileged communications not to do  
7 so. If you have any non-privileged information  
8 that's responsive to that answer, you may provide it.

9 THE WITNESS: Well, I don't recall the  
10 investigation as to inventorship, but my routine  
11 practice which I described to you, I have no reason  
12 not to believe I didn't do that on this case and come  
13 to the decision on inventorship based on that sort of  
14 practice.

15 BY MR. BRAHMA:

16 Q So your only basis for believing that Dr.  
17 Owen is the proper inventor of the claims of the '860  
18 patent is your belief that you've followed your  
19 general practice in preparing patent applications; is  
20 that correct?

21 MS. WIGMORE: I need to go off the record  
22 and consult on a privilege issue before he answers

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1           A     I don't recall.

2           Q     Do you know if Dr. Owen ever reviewed the  
3     U.K. priority application for the '860 patent before  
4     it was filed?

5           MS. WIGMORE: I'm just going to caution you  
6     in your answer not to reveal the substance of any  
7     attorney-client communication, but you may answer.

8           THE WITNESS: I don't recall.

9     BY MR. BRAHMA:

10          Q     Is there anyone else that you think would  
11     be able to recall that information?

12          MS. WIGMORE: Objection.

13          THE WITNESS: Not within the -- not within  
14     the Patent Department.

15     BY MR. BRAHMA:

16          Q     Is there someone outside of the Patent  
17     Department that you think would be able to recall  
18     that information?

19          MS. WIGMORE: Objection.

20          THE WITNESS: Well, I don't know.

21     BY MR. BRAHMA:

22          Q     So, as far as you know sitting here today,

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1 Dr. Owen didn't review the patent -- the U.K.  
2 priority application before it was submitted to the  
3 U.K. Patent Office; is that accurate?

4 MS. WIGMORE: Objection.

5 THE WITNESS: No, I didn't say that. I  
6 said I didn't recall doing it.

7 BY MR. BRAHMA:

8 Q So you don't know whether he reviewed it or  
9 not, correct?

10 A I don't remember but it's very likely that  
11 he did because of his involvement with the patent  
12 application. I just don't remember doing it.

13 Q And is that part of your standard process  
14 or general practice to have the inventor review the  
15 application before it's filed?

16 A Yes, that's right.

17 Q And when you in your general practice send  
18 the application to the inventor to review before it's  
19 filed, do you do that in written form, some written  
20 communication?

21 MS. WIGMORE: You may answer if you have a  
22 general practice, but I instruct you not to reveal

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1 the substance of any attorney-client communications  
2 to the extent you recall.

3 THE WITNESS: I think that would be in  
4 written form, yes.

5 BY MR. BRAHMA:

6 Q But you don't have any specific  
7 recollection of whether the application was ever --  
8 the U.K. priority application, excuse me, was ever  
9 transmitted to Dr. Owen prior to its filing, correct?

10 A I don't remember, that's correct.

11 Q What about the U.S. application for the  
12 '860 patent, do you have any recollection of whether  
13 Dr. Owen reviewed the application for the U.S. '860  
14 patent before that was filed with the U.S. Patent  
15 Office?

16 MS. WIGMORE: Objection, lack of  
17 foundation.

18 THE WITNESS: Well, I don't have a specific  
19 recollection but the -- if I remember correctly, the  
20 declaration and assignment form that is signed by the  
21 inventor was attached to a copy of the application as  
22 was to be filed; and, so, I think in that respect he

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1 would have seen the specification before it was  
2 filed.

3 BY MR. BRAHMA:

4 Q With respect to the U.K. application, do  
5 you have any similar indication or similar basis to  
6 believe that Dr. Owen reviewed the application before  
7 it was filed?

8 MS. WIGMORE: Objection.

9 THE WITNESS: There's not a formal document  
10 that he would sign in the same way, just my normal  
11 practice that I would send the specification for  
12 review before I filed it.

13 BY MR. BRAHMA:

14 Q Earlier you mentioned that the U.K.  
15 priority application was abandoned; is that correct?

16 MS. WIGMORE: Can you repeat that. I just  
17 didn't hear that.

18 BY MR. BRAHMA:

19 Q I'll rephrase the question.

20 Was the U.K. priority application for the  
21 '860 patent abandoned?

22 A Yes, it was.

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1 Q And why was it abandoned?

2 A Routine practice at the time was to file a  
3 European patent application covering amongst other  
4 countries the U.K., and we would do that around about  
5 the anniversary of 12 months from the initial filing  
6 and then allow the U.K. case to be abandoned. So the  
7 U.K. would be covered by the European patent.

8 Q And were you involved in the prosecution  
9 the European patent?

10 A Yes, I was.

11 Q And what was your involvement?

12 MS. WIGMORE: You can describe generally.  
13 I instruct you in your answer not to reveal the  
14 substance of any attorney-client communication, but  
15 you can answer generally.

16 THE WITNESS: Well, I was responsible for  
17 prosecuting the application for responding to any  
18 office actions and seeing the application through to  
19 grant.

20 BY MR. BRAHMA:

21 Q But with respect to the U.S. prosecution  
22 for the '860 patent, did you have any specific

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1 involvement in that U.S. prosecution?

2 MS. WIGMORE: Objection.

3 THE WITNESS: The U.S. application and the  
4 filing and responsibility for prosecution of the U.S.  
5 application primarily was with a U.S. attorney of the  
6 Upper Marion department.

7 BY MR. BRAHMA:

8 Q Did you communicate with the U.S. attorneys  
9 that were handling the U.S. prosecution?

10 MS. WIGMORE: You can answer that question  
11 yes, no, or I don't recall, but do not reveal the  
12 substance of any communications.

13 THE WITNESS: I don't recall those  
14 communications but I'm sure they happened.

15 BY MR. BRAHMA:

16 Q Did you transmit to the U.S. attorneys who  
17 were handling the U.S. prosecution the application to  
18 be filed?

19 A Yes, I did.

20 Q Did you tell the U.S. attorneys who were  
21 handling the prosecution of the '860 patent about the  
22 prior art that you were aware of?



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1 second paragraph, first five lines, is that  
2 information about bromocriptine accurate to the best  
3 of your knowledge?

4 MS. WIGMORE: Objection.

5 THE WITNESS: Well, to the best of my  
6 knowledge. I have nothing to the contrary.

7 BY MR. BRAHMA:

8 Q Let me also direct you to the -- strike  
9 that. Let me direct you to the '860 patent itself,  
10 Exhibit 17, that was previously handed to you.

11 A Yes.

12 Q If you could look at column 1, the  
13 paragraph starting at line 36.

14 A Yes.

15 Q Do you see where it says, "An alternative  
16 form of therapy is to administer postsynaptic  
17 dopamine agonists, for example ergot alkaloids such  
18 as bromocriptine"? Do you see that?

19 A Yes.

20 Q The characterization there of ergot  
21 alkaloids like bromocriptine as postsynaptic dopamine  
22 agonists, does that contradict the portion of the

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1 DeMarinis article that we were just looking at?

2 MS. WIGMORE: Objection.

3 THE WITNESS: Well, the sentence in the  
4 DeMarinis article, it says it's prejunctional D2  
5 receptor agonists.

6 BY MR. BRAHMA:

7 Q Prejunctional, correct?

8 A Prejunctional, yes. But I don't see that  
9 it says it's not a postjunctional receptor agonist.  
10 Well, that would be my observation as I sit here.

11 Q Okay. Well, let's see what you said in  
12 Exhibit 133, if we can turn to that. If you look at  
13 the first page of Exhibit 133.

14 A Yes.

15 Q Do you see the paragraph that starts "To  
16 clarify the point"?

17 A Yes.

18 Q So it says, "To clarify the point raised  
19 with respect to the prior art compound bromocriptine,  
20 there is an error in the description and is correct  
21 to state that bromocriptine is a prejunctional D2  
22 receptor agonist."